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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/674,996

11/02/2000

William Edward James

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83702

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09/15/2010

William E. James

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EXAMINER

NGUYEN, TAM M

ART UNIT

PAPER NUMBER

3764

MAIL DATE

DELIVERY MODE

09/15/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/674,996	Applicant(s) JAMES, WILLIAM EDWARD	
	Examiner TAM NGUYEN	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-26, 28-36 and 38-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22, 23, 26, 35 and 38-41 is/are allowed.
- 6) ☒ Claim(s) 24, 25, 28-34 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's inherent request for reconsideration of the finality of the rejection of the last Office action is persuasive since most rejections and/or objections were corrected as suggested by the examiner and, therefore, the finality of that action is withdrawn.

2. The amendment filed July 22, 2010 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

In the specification:

On Page 35, line 23, the term "friction" to describe the type of resistance to a roller.

On Page 38, the new paragraph starting on line 30.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 24, 25, 28-34 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, it appears that applicant is utilizing means plus function language in claim 24; thus the claim will be treated under 35 U.S.C. 112, sixth paragraph.

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4. The following claims are indefinite since they appear to have limitations having means plus function language; however, in order for the limitations to be presumed to invoke 35 U.S.C. 112, applicant must amend the limitation to include the phrase “means for”; thus

in claim 25, the phrase “power and control means connecting” should be replaced by --a power and control means for connecting--;

in claim 28, the phrase “speed regulating means to control” should be replaced by --a speed regulating means for controlling--;

in claim 34, the phrases “sensor means to sense” and “control means to receive” should be replaced by --a means for sensing-- and --a means for receiving --respectively--;

In claim 36, the phrase, “cushion means intergral with said return means to cushion” should be replaced by , --a means integral with said return means for cushioning--;

in claim 31, the phrase “motorized speed regulating means to control” should be replaced by --a motorized speed regulating means for controlling--.

5. In claims 35 and 39, it appears that applicant has supplied enough structure such that their limitations would not be presumed to invoke 35 U.S.C. 112 sixth paragraph.

Claim 35 discloses a foot pedal braking means and the term “means” may be simply changed to device or assembly while the term “fluid power means” may be changed to pneumatic mechanisms.

Allowable Subject Matter

6. Claims 22, 23, 26, 35 and 38-41 are allowed.

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7. Claims 24, 25, 28-34, and 36 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAM NGUYEN whose telephone number is (571)272-4979. The examiner can normally be reached on Monday - Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn Thanh can be reached on 571-272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

September 11, 2010

/Tam Nguyen/
Examiner, Art Unit 3764

/LoAn H. Thanh/
Supervisory Patent Examiner, Art Unit 3764

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